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PART IV

Acts of the Dominion Legislature assented to by the Governor General

GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 19th April 1948.

The following Act of the Dominion Legislature received the assent of the Governor General on the 19th April 1948 and is hereby published for general information:—

ACT No. XXXIV OF 1948

An Act to provide for certain benefits to employees in case of sickness, maternity and 'employment injury' and to make provision for certain other matters in relation thereto.

WHEREAS it is expedient to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to ~~all the Provinces~~ ^{The whole} of India, *except the State of Jammu & Kashmir.*

(3) It shall come into force on such date or dates as the Central Government may, by notification in the official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different ~~Provinces~~ ^{States or for} *different parts thereof.*

(4) It shall apply, in the first instance, to all factories (including factories belonging to the ~~Government~~ ^{Govt.} other than seasonal factories.

(5) The appropriate Government may, in consultation with the Corporation and with the approval of the Central Government, after giving six months' notice of its intention of so doing by notification in the official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) “appropriate Government” means, in respect of establishments under the control of the Central Government or a ~~federal railway~~ ^{admin.} or a major port or a mine or oilfield, the Central Government, and in all other cases, the Provincial Government;

(2) “benefit period” means such period of twenty-six consecutive weeks or six consecutive months corresponding to the contribution period, or in the case of the first benefit period, such longer or shorter period, as may be specified in the regulations;

(3) “confinement” means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(4) “contribution” means the sum of money payable to the Corporation by the principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

(5) “contribution period” means such period of twenty-six consecutive weeks or six consecutive months, or in the case of the first contribution period such longer or shorter period, as may be specified in the regulations;

(6) “Corporation” means the Employees’ State Insurance Corporation set up under this Act;

(7) “duly appointed” means appointed in accordance with the provisions of this Act or with the rules or regulations made thereunder;

(8) “employment injury” means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a factory or establishment to which this Act applies, which injury or occupational disease would entitle such employee to compensation under the Workmen’s Compensation Act, 1923 (VIII of 1923), if he were workman within the meaning of the said Act;

(9) “employee” means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and—

(i) who is directly employed by the principal employer on any work of, or incidental or preliminary to, or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere; or

(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinary part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or

(iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service;

but does not include—

(a) any member of His Majesty’s naval, military or air forces; or

(b) any person employed on a remuneration which in the aggregate exceeds four hundred rupees a month;

(10) “exempted employee” means an employee who is not liable under this Act to pay the employee’s contribution;

(11) "family" means the spouse and minor legitimate and adopted children dependent upon the insured person and where the insured person is a male, his dependent parents;

(12) "factory" means any premises including the precincts thereof where on twenty or more persons are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923);

"seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur*) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes;

The expressions "manufacturing process" and "power" shall have the meanings respectively assigned to them in the Factories Act, 1934 (XXV of 1934);

(13) "immediate employer", in relation to employees employed by or through him, means a person who has undertaken the execution, on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer;

(14) "insured person" means a person who is or was an employee in respect of whom contributions are or were payable under this Act and who is, by reason thereof, entitled to any of the benefits provided by this Act;

(15) "occupier" of the factory shall have the meaning assigned to it in the Factories Act, 1934 (XXV of 1934);

(16) "prescribed" means prescribed by rules made under this Act;

(17) "principal employer" means—

(i) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under clause (c) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934), the person so named;

(ii) in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the Department;

(iii) in any other establishment, any person responsible for the supervision and control of the establishment;

(18) "regulation" means a regulation made by the Corporation;

(19) "Schedule" means a Schedule to this Act;

(20) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds;

(21) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of work;

(22) "wages" means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes other additional remuneration, if any, paid at regular intervals after the last day of the wage period, but does not include—

(a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;

(b) any travelling allowance or the value of any travelling concession;

(c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(d) any gratuity payable on discharge;

(23) "week" means a period of seven days commencing at midnight on Saturday night;

(24) the expressions "dependant", "managing agent", "occupational disease", "partial disablement" where the disablement is of a permanent nature and "total disablement" shall have respectively the meanings assigned to them in the Workmen's Compensation Act, 1923 (VIII of 1923).

CHAPTER II.

CORPORATION, STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL.

3. Establishment of Employees' State Insurance Corporation.—(1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.

(2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

4. Constitution of Corporation.—The Corporation shall consist of the following members, namely:—

- (a) the Minister for Labour in the Central Government, *ex-officio*, as Chairman;
- (b) the Minister for Health in the Central Government, *ex-officio*, as Vice-Chairman;
- (c) not more than five persons to be nominated by the Central Government of whom at least three shall be officials of the Central Government;
- (d) one person each representing each of the Governor's Provinces to be nominated by the Provincial Government concerned;
- (e) one person to be nominated by the Central Government to represent the Chief Commissioners' Provinces;
- (f) five persons representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;
- (g) five persons representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;
- (h) two persons representing the medical profession to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government; and
- (i) two persons to be elected by the Central Legislature.

6. Term of office of members of the Corporation.—(1) Save as otherwise expressly provided in this Act, the term of office of members of the Corporation, other than the *ex-officio* members and members referred to in clauses (c), (d) and (e) of section 4, shall be four years commencing from the date on which their nomination or election is notified:

Provided that a member of the Corporation shall, notwithstanding the expiry of the said period of four years, continue to hold office until the nomination or election of his successor is notified.

(2) The members of the Corporation referred to in clauses (c), (d) and (e) of section 4 shall hold office during the pleasure of the Government nominating them.

6. Eligibility for renomination or re-election.—An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for renomination or re-election as the case may be.

7. Authentication of orders, decisions, etc.—All orders and decisions of the Corporation shall be authenticated by the signature of the Chairman or some other member authorised by the Corporation in this behalf and all other instruments issued by the Corporation shall be authenticated by the signature of such member or officer of the Corporation as may be authorised by it.

8. Constitution of Standing Committee.—A Standing Committee of the Corporation shall be constituted from among its members, consisting of—

- (a) a Chairman, nominated by the Central Government;
- (b) three members of the Corporation, being officials of the Central Government, nominated by that Government;
- (c) nine members elected by the Corporation as follows:—
 - (i) three members from among the members of the Corporation nominated by the Provincial Governments;
 - (ii) two members from among the members of the Corporation representing employers;
 - (iii) two members from among the members of the Corporation representing employees;
 - (iv) one member from among the members of the Corporation representing the medical profession; and
 - (v) one member from among the members of the Corporation elected by the Central Legislature.

9. Term of office of members of Standing Committee.—(1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or clause (b) of section 8, shall be two years from the date on which his election is notified:

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified:

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation.

(2) A member of the Standing Committee referred to in clause (a) or clause (b) of section 8 shall hold office during the pleasure of the Central Government.

10. Medical Benefit Council.—(1) The Central Government shall constitute a Medical Benefit Council consisting of—

- (a) the Director General, Health Services, *ex-officio*, as Chairman;
- (b) a Deputy Director General, Health Services, to be nominated by the Central Government;

- (c) the Medical Commissioner of the Corporation, *ex-officio*;
- (d) one member each representing each of the Governor's Provinces to be nominated by the Provincial Government concerned;
- (e) three members representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;
- (f) three members representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;
- and
- (g) three members, of whom not less than one shall be a woman, representing the medical profession, to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government.

(2) Save as otherwise expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a member referred to in any of the clauses (a) to (d) of sub-section (1), shall be four years from the date on which his nomination is notified.

(3) A member of the Medical Benefit Council referred to in clauses (b) and (d) of sub-section (1) shall hold office during the pleasure of the Government nominating him.

11. Resignation of membership.—A member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance if the resignation by that Government.

12. Cessation of membership.—A member of the Corporation, the Standing Committee, or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof:

Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may, subject to rules made by the Central Government in this behalf, restore him to membership.

13. Disqualification.—A person shall be disqualified for being chosen* as or for being a member of the Corporation, the Standing Committee or the Medical Benefit Council—

- (a) if he is declared to be of unsound mind by a competent Court; or
- (b) if he is an undischarged insolvent; or
- (c) if he has directly or indirectly by himself or by his partner any interest in a subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a shareholder (not being a Director) of a company; or
- (d) if before or after the commencement of this Act, he has been convicted of an offence involving moral turpitude.

14. Filling of vacancies.—(1) Vacancies in the office of nominated or elected members of the Corporation, the Standing Committee and the Medical Benefit Council shall be filled by nomination or election, as the case may be.

(2) A member of the Corporation, the Standing Committee or the Medical Benefit Council nominated or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is nominated or elected would have been entitled to hold office if the vacancy had not occurred

15. Fees and allowances.—Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

16. Principal Officers.—(1) The Central Government may, in the case of the first appointments itself and in the case of subsequent appointments, in consultation with the Corporation, appoint the following officers (hereinafter referred to as Principal Officers) of the Corporation, namely:—

- (a) a Director General of Employees' State Insurance;
- (b) an Insurance Commissioner;
- (c) a Medical Commissioner;
- (d) a Chief Accounts Officer; and
- (e) an Actuary.

(2) The Director General shall be the Chief Executive Officer of the Corporation.

(3) The Principal Officers shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government.

(4) A Principal Officer shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Principal Officer shall be eligible for reappointment if he is otherwise qualified.

(5) A Principal Officer shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified from being appointed as or for being a Principal Officer if he is subject to any of the disqualifications specified in section 13.

(7) The Central Government may at any time remove a Principal Officer from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Corporation.

17. Staff.—(1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post with a maximum monthly salary of five hundred rupees and above.

(2) The Corporation shall, with the approval of the Central Government, make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff.

(3) Every appointment to posts carrying a maximum monthly pay of five hundred rupees and above shall be made in consultation with the Federal Public Service Commission:

Provided that this sub-section shall not apply to an officiating or temporary appointment for an aggregate period not exceeding one year.

18. Powers of the Standing Committee.—(1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.

(2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.

(3) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

19. Corporation's power to promote measures for health, etc., of insured persons.—The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured and may incur in respect of such measures expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

20. Meetings of Corporation, Standing Committee and Medical Benefit Council.—Subject to any rules made under this Act, the Corporation, the Standing Committee and the Medical Benefit Council shall meet at such times and places and shall observe such rules or procedure in regard to transaction of business at their meetings as may be specified in the regulations made in this behalf.

21. Supersession of the Corporation and Standing Committee.—(1) If in the opinion of the Central Government, the Corporation or the Standing Committee persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, that Government may, by notification in the official Gazette, supersede the Corporation, or in the case of the Standing Committee, supersede in consultation with the Corporation, the Standing Committee:

Provided that before issuing a notification under this sub-section the Central Government shall give a reasonable opportunity to the Corporation or the Standing Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation or the Standing Committee, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Corporation or the Standing Committee, all the members of the Corporation or the Standing Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.

(3) When the Standing Committee has been superseded, a new Standing Committee shall be immediately constituted in accordance with section 8.

(4) When the Corporation has been superseded, the Central Government may—

(a) immediately nominate or cause to be nominated or elected new members to the Corporation in accordance with section 4 and may constitute a new Standing Committee under section 8;

(b) in its discretion, appoint such agency, for such period as it may think fit, to exercise the powers and perform the functions of the Corporation and such agency shall be competent to exercise all the powers and perform all the functions of the Corporation.

(5) The Central Government shall cause a full report of any action taken under this section and the circumstances leading to such action to be laid before the Central Legislature at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Corporation or the Standing Committee, as the case may be.

22. Duties of Medical Benefit Council.—The Medical Benefit Council shall—

(a) advise the Corporation, the Standing Committee and the Medical Commissioner on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters;

- (b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance; and
- (c) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

23. Duties of Principal Officers.—The Principal Officers shall exercise such powers and discharge such duties as may be prescribed. They shall also perform such other functions as may be specified in the regulations.

24. Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.—No act of the Corporation, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Corporation, the Standing Committee or the Medical Benefit Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

25. Regional Boards, Local Committees, Regional and Local Medical Benefit Councils.—The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner, and delegate to them such powers and functions, as may be provided by the regulations.

CHAPTER III

FINANCE AND AUDIT

26. Employees' State Insurance Fund.—(1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Employees' State Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

(2) The Corporation may accept grants, donations and gifts from the Central or any Provincial Government, Indian State, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

(3) All moneys accruing or payable to the said Fund shall be received by such officers of the Corporation as may be authorised by it in this behalf and shall forthwith be paid by them into the Reserve Bank of India or such other bank as may be approved by the Central Government, to an account styled the account of the Employees' State Insurance Fund.

(4) Such account shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Corporation.

27. Grant by the Central Government.—The Central Government shall, every year during the first five years, make a grant to the Corporation of a sum equivalent to two-thirds of the administrative expenses of the Corporation not including therein the cost of any benefits provided by or under this Act.

28. Purposes for which the Fund may be expended.—Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:—

- (i) payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;

- (ii) payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees and Regional and Local Medical Benefit Councils;
- (iii) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;
- (iv) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families, their families;
- (v) payment of contributions to any Provincial Government, Indian State, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and, where the medical benefit is extended to their families, their families including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;
- (vi) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;
- (vii) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Act;
- (viii) payment of any sums under any contract entered into for the purposes of this Act by the Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;
- (ix) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;
- (x) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;
- (xi) defraying expenditure, within the limits prescribed, on measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured; and
- (xii) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

29. Holding of property, etc.—(1) The Corporation may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.

(2) Subject to such conditions as may be prescribed by the Central Government, the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Act and may, subject as aforesaid, from time to time re-invest or realise such investments.

(3) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.

(4) The Corporation may constitute for the benefit of its staff or any class of them, such provident or other benefit fund as it may think fit.

30. Vesting of the property in the Corporation.—All property acquired before the establishment of the Corporation shall vest in the Corporation and all income derived and expenditure incurred in this behalf shall be brought into the books of the Corporation.

31. Expenditure by Central Government to be treated as a loan.—All expenditure incurred by the Central Government for and in connection with the establishment of the Corporation up to the date of its establishment shall be treated as a loan advanced by the Central Government to the Corporation and such loan shall be adjusted against grants from the Central Government to the Corporation.

32. Budget estimates.—The Corporation shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the Central Government before such date as may be fixed by it in that behalf. The budget shall contain provisions adequate in the opinion of the Central Government for the discharge of the liabilities incurred by the Corporation and for the maintenance of a working balance.

33. Accounts.—The Corporation shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

34. Audit.—(1) The accounts of the Corporation shall be audited, at such times and in such manner as may be prescribed, by auditors appointed by the Central Government.

(2) The auditors shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may, for the purposes of the audit, call for such explanation and information as they may require or examine any principal or other officer of the Corporation.

(3) The auditors shall forward to the Central Government a copy of their report together with an audited copy of the accounts of the Corporation.

(4) The cost of the audit as determined by the Central Government shall be paid out of the funds of the Corporation.

35. Annual report.—The Corporation shall submit to the Central Government an annual report of its work and activities.

36. Budget, audited accounts and the annual report to be placed before the Central Legislature.—The annual report, the audited accounts of the Corporation, and the budget as finally adopted by the Corporation shall be placed before the Central Legislature and published in the official Gazette.

37. Valuation of assets and liabilities.—The Corporation shall, at intervals of five years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Central Government:

Provided that it shall be open to the Central Government to direct a valuation to be made at such other times as it may consider necessary.

CHAPTER IV

CONTRIBUTIONS

38. All employees to be insured.—Subject to the provisions of this Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act.

39. Contributions.—(1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

(2) The contributions shall be paid at the rates specified in the First Schedule, and in case where the provisions of this Act are made applicable to any employee or class of employees in any factory or establishment or class of factories or establishments in such manner that they are excluded from some of the benefits under this Act, at such rates as the Corporation may fix in this behalf.

(3) A week shall be the unit in respect of which all contributions shall be payable under this Act.

(4) The contributions payable in respect of each week shall ordinarily fall due on the last day of the week, and where an employee is employed for part of the week, or is employed under two or more employers during the same week, the contributions shall fall due on such days as may be specified in the regulations.

40. Principal employer to pay contributions in the first instance.—(1) The principal employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer, both the employer's contribution and the employee's contribution.

(2) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the principal employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by deduction from his wages and not otherwise:

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the sum representing the employee's contribution for the period.

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.

(4) Any sum deducted by the principal employer from wages under this Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(5) The Principal employer shall bear the expenses of remitting the contributions to the Corporation.

41. Recovery of contribution from immediate employer.—(1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.

(2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to the conditions specified in the proviso to sub-section (2) of section 40.

Explanation.—For the purposes of sections 40 and 41, wages shall be deemed to include payment to an employee in respect of any period of authorised leave, lock-out or legal strike.

42. General provisions as to payment of contributions.—(1) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages are below one rupee.

Explanation.—The average daily wages of an employee shall be calculated in the manner specified in the First Schedule.

(2) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each week during the whole or part of which an employee is employed.

(3) Where wages are payable to an employee for a portion of the week, the employer shall be liable to pay both the employer's contribution and the employee's contribution for the week in full but shall be entitled to recover from the employee the employee's contribution.

(4) No contribution shall be payable in respect of an employee for any week during the whole of which no services are rendered by an employee and in respect of which no wages are payable to him.

(5) Notwithstanding the provisions of sub-section (4), contribution shall be payable, in respect of any week during which no services are rendered by and no wages are paid to an employee, at the rate at which contribution was last paid, where the failure to render such services is due to the employee being on authorised leave, or is due to a lock-out or a legal strike, if in respect of the period covered by such legal strike the employee receives wages in full or in part.

43. Method of payment of contribution.—Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for—

(a) the manner and time of payment of contributions;

(b) the payment of contributions by means of adhesive or other stamps affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions in, at and under which, such stamps are to be affixed or impressed;

(c) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate; and

(d) the issue, sale, custody, production, inspection and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced.

44. Returns by employers.—Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him, as may be specified in regulations made in this behalf.

45. Inspectors, their functions and duties.—(1) The Corporation may appoint such persons as Inspectors, as it thinks fit, for the purposes of this Act, within such local limits as it may assign to them.

(2) Any Inspector appointed by the Corporation under sub-section (1) (hereinafter referred to as Inspector), or other official of the Corporation authorised in this behalf by it may, for the purposes of enquiring into the correctness of any of the particulars stated in any return referred to in section 44 or for the purpose of ascertaining whether any of the provisions of this Act has been complied with—

(a) require any principal or immediate employer to furnish to him such information as he may consider necessary for the purposes of this Act; or

(b) at any reasonable time enter any office, establishment, factory or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine, with respect to any matter relevant to the purposes aforesaid, the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to be or to have been an employee

(3) An Inspector shall exercise such functions and perform such duties as may be authorised by the Corporation or as may be specified in the regulations.

CHAPTER V.

BENEFITS

46. Benefits.—(1) Subject to the provisions of this Act, the insured persons or, as the case may be, their dependants shall be entitled to the following benefits, namely:—

(a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner (hereinafter referred to as sickness benefit);

(b) periodical payments in case of confinement to an insured woman, certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);

(c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit);

(d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants' benefit); and

(e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit).

(2) The Corporation may, at the request of the appropriate Government, and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

47. When person eligible for sickness benefit.—A person shall be qualified to claim sickness benefit during any benefit period, if during the corresponding contribution period, weekly contributions in respect of him were payable for not less than two-thirds of the number of weeks during which he shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions:

Provided that the Corporation may waive the minimum number of contributions during the first contribution period.

48. When person deemed available for employment.—A person shall always be deemed to have been available for employment in any week, except when during the whole of such week,—

- (a) he was unable to work on account of sickness which had been duly certified, whether entitling him to receive sickness benefit or not, or
- (b) he was qualified to receive disablement benefit for temporary disablement, or
- (c) in the case of an insured woman, she was entitled to the maternity benefit provided in section 50 or she would have been entitled to such benefit if she had fulfilled all other conditions entitling her thereto.

49. Sickness benefit.—Subject to the provisions of this Act and the regulations, if any, a person qualified to claim sickness benefit in accordance with section 47 shall be entitled to receive such benefit at the rates specified in the Second Schedule for the period of his sickness:

Provided that he shall not be entitled to the benefit for an initial waiting period of two days except in the case of a spell of sickness following, at an interval of not more than fifteen days, the spell of sickness for which sickness benefit was last paid:

Provided further that sickness benefit shall not be paid to any person for a number of days in excess of the number which taken together with the number of days for which he has already received the benefit makes up a total of fifty-six days during any continuous period of three hundred and sixty-five days.

50. Maternity benefit.—(1) An insured woman shall be qualified to claim maternity benefit for a confinement occurring in a benefit period if during the corresponding contribution period, weekly contributions in respect of her were payable for not less than two-thirds of the number of weeks during which she shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions:

Provided that at least one contribution has been paid between thirty-five and forty weeks before the week in which the confinement takes place or in which notice of pregnancy is given before confinement whichever is more advantageous to the insured person.

(2) Subject to the provisions of this Act, and the regulations, if any, an insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall be entitled to receive it at the rate of twelve annas a day for all days on which she does not work for remuneration during a period of twelve weeks of which not more than six shall precede the expected date of confinement.

51. Disablement benefit.—(1) Subject to the provisions of this Act, and the regulations, if any, disablement benefit shall be payable—

(a) to a person who sustains temporary disablement, during the period of such disablement;

(b) to a person who sustains permanent partial disablement, during his life;

(c) to a person who sustains permanent total disablement, during his life; and

(d) to a person, in all cases of disablement not falling under sub-clauses (a), (b) or (c) of this sub-section, as may be provided in the regulations.

(2) Disablement benefit shall be paid on the scale and subject to the conditions specified in this behalf in the Second Schedule.

52. Dependants' benefit.—Where an insured person dies as a result of an employment injury sustained as an employee under this Act, dependants' benefit shall be payable subject to the provisions of this Act and the regulations, if any, to his dependants at such rates and for such period as is specified in the Second Schedule.

53. Disablement and dependants' benefits.—Where an insured person is or his dependants are entitled to receive or recover, whether from the employer of the insured person or from any other person any compensation or damages under the Workmen's Compensation Act, 1923 (VIII of 1923), or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act, then the following provisions shall apply, namely:—

(i) The insured person shall, in lieu of such compensation or damages, receive the disablement benefit provided by this Act [but subject otherwise to the conditions specified in the Workmen's Compensation Act, 1923 (VIII of 1923)] from the Corporation and not from the employer or other person.

(ii) If the insured person dies as a result of the employment injury sustained as an employee under this Act (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit shall be payable at the rates and in the proportion specified in the Second Schedule to his widow or widows during her or their widowhood, and to minor legitimate or adopted sons and minor legitimate unmarried daughters.

(iii) In case the insured person does not leave him surviving any widow or children as mentioned in clause (ii) or in the case of an insured woman if she does not leave her surviving any children as mentioned in clause (ii), dependant's benefit shall be paid to the other dependants of the deceased at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923).

(iv) The amount of dependants' benefit payable under clause (ii) shall not exceed one-half of the amount which would have been payable to the insured person as benefit on permanent total disablement.

(v) Save as modified by this Act, the obligations and liabilities imposed on an employer by the Workmen's Compensation Act, 1923 (VIII of 1923), shall continue to apply to him.

54. Medical examination.—All medical examinations and treatment referred to in the Workmen's Compensation Act, 1923 (VIII of 1923), shall for the purposes of this Act, be carried out by duly appointed medical practitioners.

55. Review of benefits.—(1) Any payment of disablement benefit may be reviewed by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923), on the application of—

- (a) an Insurance Officer of the Corporation, or
- (b) the person receiving the benefit,

and such application shall be accompanied by a certificate of a duly appointed medical officer:

Provided that such application may be made without such certificate in such circumstances as may be specified in the regulations made in this behalf.

(2) Subject to the provisions of this Act, the Commissioner may, on such review as aforesaid, direct that the disablement benefit be continued, increased, reduced or discontinued.

56. Medical benefit.—(1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) A person shall be entitled to medical benefit during any week for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit or, as provided under the regulations, is in receipt of disablement benefit:

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations.

57. Scale of medical benefit.—(1) An insured person and (where such medical benefit is extended to his family) his family shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the Provincial Government or by the Corporation, and an insured person or, where such medical benefit is extended to his family, his family shall not have a right to claim any medical treatment except such as is provided by the dispensary, hospital, clinic or other institution to which he or his family is allotted, or as may be provided by the regulations.

(2) Nothing in this Act shall entitle an insured person and (where such medical benefit is extended to his family) his family to claim reimbursement from the Corporation of any expenses incurred in respect of any medical treatment, except as may be provided by the regulations.

58. Provision of medical treatment by Provincial Government.—(1) The Provincial Government shall provide for insured persons and (where such benefit is extended to their families) their families in the Province, reasonable medical surgical and obstetric treatment:

Provided that the Provincial Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to insured persons in any province is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the Provincial Government in such proportion as may be fixed by agreement between them.

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the Provincial Government.

(3) The Corporation may enter into an agreement with a Provincial Government in regard to the nature and scale of the medical treatment that should be provided to insured persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the Provincial Government.

(4) In default of agreement between the Corporation and any Provincial Government as aforesaid the nature and extent of the medical treatment to be provided by the Provincial Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be or shall have been a Judge of the High Court of a Province) appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the Provincial Government.

59. Establishment and maintenance of hospitals, etc., by Corporation.—(1) The Corporation may, with the approval of the Provincial Government, establish and maintain in a Province such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families) their families.

(2) The Corporation may enter into agreement with any Indian State, local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

GENERAL.

60. Benefit not assignable or attachable.—(1) The right to receive any payment of any benefit under this Act shall not be transferable or assignable.

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any Court.

61. Bar of benefits under other enactments.—When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment.

62. Persons not to commute cash benefits.—Save as may be provided in the regulations no person shall be entitled to commute for a lump sum any periodical payment admissible under this Act.

63. Persons not entitled to receive benefits in certain cases.—No person shall be entitled to sickness benefit or maternity benefit, or disablement benefit for temporary disablement in respect of any day on which he works and receives wages.

64. Recipients of sickness or disablement benefit to observe conditions.—A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement)—

(a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Act and shall carry out the instructions given by the medical officer or medical attendant in charge thereof;

(b) shall not while under treatment do anything which might retard or prejudice his chances of recovery;

(c) shall not leave the area in which medical treatment provided by this Act is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and

(d) shall allow himself to be examined by any duly appointed medical officer or sick visitor or other person authorised by the Corporation in this behalf.

65. Benefits not to be combined.—(1) An insured person shall not be entitled to receive for the same period—

- (a) both sickness benefit and maternity benefit; or
- (b) both sickness benefit and disablement benefit for temporary disablement; or
- (c) both maternity benefit and disablement benefit for temporary disablement.

(2) Where a person is entitled to more than one of the benefits mentioned in sub-section (1), he shall be entitled to choose which benefit he shall receive.

66. Corporation's right to recover damages from employer in certain cases.—

(1) Where any employment injury is sustained by an insured person as an employee under this Act by reason of the negligence of the employer to observe any of the safety rules laid down by or under any enactment applicable to a factory or establishment or by reason of any wrongful act of the employer or his agent, the Corporation shall notwithstanding the fact that the employer has paid the weekly contributions due under this Act in respect of such insured person be entitled to be reimbursed by the employer or the principal who is liable to pay compensation under section 12 of the Workmen's Compensation Act, 1923 (VIII of 1923), the actuarial present value of the periodical payments which the Corporation is liable to make under this Act.

(2) For the purposes of this Act, the actuarial present value of the periodical payments shall be determined in such manner as may be specified in the regulations.

67. Corporation's right to be indemnified in certain cases.—Where an insured person is entitled to receive or to recover (but has not received or recovered), whether from his employer or any other person, compensation or damages under any law for the time being in force in respect of any employment injury caused under circumstances creating a legal liability in some person other than the employer or his agent, the Corporation shall be entitled to be indemnified by the person so liable:

Provided that the Corporation shall not be entitled to be indemnified by an employer who has paid contributions in respect of the employee sustaining the employment injury as an employee under this Act, except in cases covered by section 66.

68. Corporation's rights where a principal employer fails or neglects to pay any contribution.—(1) If any principal employer fails or neglects to pay any contribution which under this Act he is liable to pay in respect of any employee and by reason thereof such person becomes disentitled to any benefit or entitled to a benefit on a lower scale, the Corporation may, on being satisfied that the contribution should have been paid by the principal employer, pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Corporation shall be entitled to recover from the principal employer either—

(i) the difference between the amount of benefit which is paid to the said person and the amount of the benefit which would be payable on the basis of the contributions which should have been paid by the employer, or

(ii) twice the amount of the contribution which the employer failed or neglected to pay,

whichever is greater.

(2) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

69. Liability of owner or occupier of factories, etc., for excessive sickness benefit.—(1) Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of—

- (i) insanitary working conditions in a factory or establishment or the neglect of the owner or occupier of the factory or establishment to observe any health regulations enjoined on him by or under any enactment, or
- (ii) insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactment,

the Corporation may send to the owner or occupier of the factory or establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.

(2) If the appropriate Government is of opinion that a *prima facie* case for inquiry is disclosed, it may appoint a competent person or persons to hold an inquiry into the matter.

(3) If upon such inquiry it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

(5) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

70. Repayment of benefit improperly received.—(1) Where any person has received any benefit or payment under this Act when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands.

(2) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(3) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

71. Benefit payable up to and including day of death.—If a person dies during any period for which he is entitled to a cash benefit under this Act, the amount of such benefit up to and including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.

72. Employer not to reduce wages, etc.—No employer by reason only of his liability for any contributions payable under this Act shall, directly or indirectly reduce the wages of any employee, or except as provided by the regulations, discontinue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Act.

73. Employer not to dismiss or punish employee during period of sickness, etc.—(1) No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall he, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

(2) No notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

CHAPTER VI.

ADJUDICATION OF DISPUTES AND CLAIMS.

74. Constitution of Employees' Insurance Court.—(1) The Provincial Government shall, by notification in the official Gazette, constitute an Employees' Insurance Court for such local area as may be specified in the notification.

(2) The Court shall consist of such number of Judges as the Provincial Government may think fit.

(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.

(4) The Provincial Government may appoint the same Court for two or more local areas or two or more Courts for the same local area.

(5) Where more than one Court has been appointed for the same local area, the Provincial Government may by general or special order regulate the distribution of business between them.

75. Matters to be decided by Employees' Insurance Court.—(1) If any question or dispute arises as to—

- (a) whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution, or
- (b) the rate of wages or average daily wages of an employee for the purposes of this Act, or
- (c) the rate of contribution payable by a principal employer in respect of any employee, or
- (d) the person who is or was the principal employer in respect of any employee, or
- (e) the right of any person to any benefit and as to the amount and duration thereof, or
- (f) the actuarial present value of the periodical payments referred to in section 66, or
- (g) any other matter which is in dispute between a principal employer and the Corporation, or between a principal employer and an immediate employer, or between a person and the Corporation or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Act,

such question or dispute shall be decided by the Employees' Insurance Court in accordance with the provisions of this Act.

(2) The following claims shall be decided by the Employees' Insurance Court, namely:—

- (a) claim for the recovery of contributions from the principal employer;
- (b) claim by a principal employer to recover contributions from any immediate employer;
- (c) claim under section 66 or 67 made by the Corporation against the employer or other person liable thereunder;
- (d) claim against a principal employer under section 68;
- (e) claim under section 70 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; and
- (f) any claim for the recovery of any benefit admissible under this Act.

(3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by the Employees' Insurance Court.

76. Institution of proceedings, etc.—(1) Subject to the provisions of this Act and any rules made by the Provincial Government, all proceedings before the Employees' Insurance Court shall be instituted in the Court appointed for the local area in which the insured person was working at the time the question or dispute arose.

(2) If the Court is satisfied that any matter arising out of any proceeding pending before it can be more conveniently dealt with by any other Employees' Insurance Court in the same Province, it may, subject to any rules made by the Provincial Government in this behalf, order such matter to be transferred to such other Court for disposal and shall forthwith transmit to such other Court the records connected with that matter.

(3) The Provincial Government may transfer any matter pending before any Employees' Insurance Court in the Province to any such Court in another Province with the consent of the Provincial Government of that Province.

(4) The Court to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.

77. Commencement of proceedings.—(1) The proceedings before an Employees' Insurance Court shall be commenced by application.

(2) Every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee, if any, as may be prescribed by rules made by the Provincial Government in consultation with the Corporation.

78. Powers of Employees' Insurance Court.—(1) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such Court shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

(2) The Employees' Insurance Court shall follow such procedure as may be prescribed by rules made by the Provincial Government.

(3) All costs incidental to any proceeding before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the Provincial Government, be in the discretion of the Court.

(4) An order of the Employees' Insurance Court shall be enforceable as if it were a decree passed in a suit by a Civil Court.

79. Appearance by legal practitioners, etc.—Any application, appearance or act required to be made or done by any person to or before an Employees' Insurance Court (other than appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of the Court, by any other person so authorised.

80. Benefit not admissible unless claimed in time.—An Employees' Insurance Court shall not direct the payment of any benefit to a person unless he has made a claim for such benefit in accordance with the regulations made in that behalf, within twelve months after the claim became due:

Provided that if the Court is satisfied that there was reasonable excuse for not making a claim for the benefit within twelve months after it became due, it may direct the payment of the benefit as if the claim had been made in time.

81. Reference to High Court.—An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

82. Appeal.—(1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days.

(4) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 (XL of 1908), shall apply to appeals under this section.

83. Stay of payment pending appeal.—Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

CHAPTER VII.

PENALTIES.

84. Punishment for false statement.—Whoever, for the purpose of causing any increase in payment or benefit under this Act, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorized by or under this Act, or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to three months, or with fine not exceeding five hundred rupees, or with both.

85. Punishment for failure to pay contributions, etc.—If any person—

(a) fails to pay any contribution which under this Act he is liable to pay,
or

(b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution, or

- (c) in contravention of section 72 reduces the wages or any privileges or benefits admissible to an employee, or
- (d) in contravention of section 73 or any regulation dismisses, discharges, reduces or otherwise punishes an employee, or
- (e) fails or refuses to submit any return required by the regulations or makes a false return, or
- (f) obstructs any Inspector or other official of the Corporation in the discharge of his duties, or
- (g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of which no special penalty is provided.

he shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

86. Prosecutions.—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(3) No Court shall take cognizance of any offence under this Act except on a complaint made in writing in respect thereof, within six months of the date on which the offence is alleged to have been committed.

CHAPTER VIII.

MISCELLANEOUS.

87. Exemption of a factory or establishment or class of factories or establishments.—The appropriate Government, may, by notification in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment or class of factories or establishments in any specified area from the operation of this Act for a period not exceeding one year and may from time to time by like notification renew any such exemption for periods not exceeding one year at a time.

88. Exemption of persons or class of persons.—The appropriate Government may, by notification in the official Gazette and subject to such conditions as it may deem fit to impose, exempt any persons or class of persons employed in any factory or establishment or class of factories or establishments to which this Act applies from the operation of the Act

89. Corporation to make representation.—No exemption shall be granted or renewed under section 87 or section 88, unless a reasonable opportunity has been given to the Corporation to make any representation it may wish to make in regard to the proposal and such representation has been considered by the appropriate Government.

90. Exemption of factories or establishments belonging to Government or any local authority.—The appropriate Government may, by notification in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment belonging to the Crown or any local authority, if the employees in any such factory or establishment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.

91. Exemption from one or more provisions of the Act.—The appropriate Government may, with the consent of the Corporation, by notification in the official Gazette, exempt any employees or class of employees in any factory or establishment or class of factories or establishments from one or more of the provisions relating to the benefits provided under this Act.

92. Power of Central Government to give directions.—The Central Government may give directions to a Provincial Government as to the carrying into execution of this Act in the Province.

93. Corporation officers and servants to be public servants.—All officers and servants of the Corporation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

94. Contributions, etc., due to Corporation to have priority over other debts.—There shall be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 280 of the Indian Companies Act, 1913 (VII of 1913), are, in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be.

95. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, make rules not inconsistent with this Act for the purpose of giving effect to the provisions thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner in which nominations and elections of members of the Corporation, the Standing Committee and the Medical Benefit Council shall be made;
- (b) the quorum at meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the minimum number of meetings of those bodies to be held in a year;
- (c) the records to be kept of the transaction of business by the Corporation, the Standing Committee and the Medical Benefit Council;
- (d) the powers and duties of the Principal Officers and the conditions of their service;
- (e) the powers and duties of the Medical Benefit Council;
- (f) the procedure to be adopted in the execution of contracts;
- (g) the acquisition, holding and disposal of property by the Corporation;
- (h) the raising and repayment of loans;
- (i) the investment of the funds of the Corporation and of any provident or other benefit fund and their transfer or realisation;
- (j) the basis on which the periodical valuation of the assets and liabilities of the Corporation shall be made;
- (k) the bank or banks in which the funds of the Corporation may be deposited, the procedure to be followed in regard to the crediting of moneys accruing or payable to the Corporation and the manner in which any sums may be paid out of the Corporation funds and the officers by whom such payment may be authorised;
- (l) the accounts to be maintained by the Corporation and the forms in which such accounts shall be kept and the times at which such accounts shall be audited;

- (m) the publication of the accounts of the Corporation and the report of auditors, the action to be taken on the audit report, the powers of auditors to disallow and surcharge items of expenditure and the recovery of sums so disallowed or surcharged;
- (n) the preparation of budget estimates and of supplementary estimates and the manner in which such estimates shall be sanctioned and published;
- (o) the establishment and maintenance of provident or other benefit fund for officers and servants of the Corporation; and
- (p) any matter which is required or allowed by this Act to be prescribed by the Central Government.

(3) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

96. Power of Provincial Government to make rules.—(1) The Provincial Government may, subject to the condition of previous publication, make rules not inconsistent with this Act in regard to all or any of the following matters, namely:—

- (a) the constitution of Employees' Insurance Courts, the qualifications of persons who may be appointed Judges thereof, and the conditions of service of such Judges;
- (b) the procedure to be followed in proceedings before such Courts and the execution of orders made by such Courts;
- (c) the fee payable in respect of applications made to the Employees' Insurance Court, the costs incidental to the proceedings in such Court, the form in which applications should be made to it and the particulars to be specified in such applications;
- (d) the establishment of hospitals, dispensaries and other institutions, the allotment of insured persons or their families to any such hospital, dispensary or other institution;
- (e) the scale of medical benefit which shall be provided at any hospital, clinic, dispensary or institution, the keeping of medical records and the furnishing of statistical returns;
- (f) the nature and extent of the staff, equipment and medicines that shall be provided at such hospitals, dispensaries and institutions;
- (g) the conditions of service of the staff employed at such hospitals, dispensaries and institutions; and
- (h) any other matter which is required or allowed by this Act to be prescribed by the Provincial Government.

(2) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

97. Power of Corporation to make regulations.—(1) The Corporation may, subject to the condition of previous publication, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (i) the time and place of meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the procedure to be followed at such meetings;

- (ii) the matters which shall be referred by the Standing Committee to the Corporation for decision;
- (iii) the manner in which any contribution payable under this Act shall be assessed and collected;
- (iv) reckoning of wages for the purpose of fixing the contribution payable under this Act;
- (v) the certification of sickness and eligibility for any cash benefit;
- (vi) the method of determining the actuarial present value of periodical payments;
- (vii) the assessing of the money value of any benefit which is not a cash benefit;
- (viii) the time within which and the form in which any claim for a benefit may be made and the particulars to be specified in such claim;
- (ix) the circumstances in which an employee in receipt of disablement benefit may be dismissed, discharged, reduced or otherwise punished;
- (x) the manner in which and the place and time at which any benefit shall be paid;
- (xi) the method of calculating the amount of cash benefit payable and the circumstances in which and the extent to which commutation of disablement and dependant's benefits, may be allowed and the method of calculating the commutation value;
- (xii) the notice of pregnancy or of confinement and notice and proof of sickness;
- (xiii) the conditions under which any benefit may be suspended;
- (xiv) the conditions to be observed by a person when in receipt of any benefit and the periodical medical examination of such persons;
- (xv) the visiting of sick persons;
- (xvi) the appointment of medical practitioners for the purposes of this Act, the duties of such practitioners and the form of medical certificates;
- (xvii) the penalties for breach of regulations by fine (not exceeding two days' wages for a first breach and not exceeding three days' wages for any subsequent breach) which may be imposed on employees;
- (xviii) the circumstances in which and the conditions subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted;
- (xix) the returns to be submitted by the principal and immediate employers, the form in which and the times at which such returns should be submitted and the particulars to be given in such returns;
- (xx) the duties and powers of Inspectors and other officers and servants of the Corporation;
- (xxi) the conditions of service of the officers and servants of the Corporation other than the Principal Officers;
- (xxii) the procedure to be followed in remitting contributions to the Corporation; and
- (xxiii) any matter in respect of which regulations are required or permitted to be made by this Act.

(3) Regulations made by the Corporation shall be published in the Gazette of India and thereupon shall have effect as if enacted in this Act.

98. Corporation may undertake duties in the Indian States.—The Corporation may, at the request of the Government of an Indian State and with the previous permission of the Central Government and subject to such conditions as may be imposed by it, undertake to discharge in the Indian State any duty which may be specified in a State law corresponding to this Act.

99. Enhancement of benefits.—At any time when its funds so permit, the Corporation may enhance the scale of any benefit admissible under this Act and the period for which such benefit may be given, and provide or contribute towards the cost of medical care for the families of insured persons.

SCHEDULE I

(See section 39)

1. The amount if weekly contribution payable in respect of an employee shall be calculated with reference to his average daily wages.

2. The average daily wages shall be:—

(a) in respect of an employee employed on daily wages, the amount of wages earned during the week divided by the number of days worked (reckoned in terms of full working days);

(b) in respect of an employee employed on weekly wages, the amount earned in the week divided by the number of days worked (reckoned in terms of full working days);

(c) in respect of an employee employed on monthly wages, the amount earned in the month in which the contribution falls due, divided by the number of days worked (reckoned in terms of full working days);

(d) in respect of an employee employed on the basis of any other wage period, the wages for the period, in which the contribution falls due, divided by the number of days worked (reckoned in terms of full working days) during the period;

(e) in respect of an employee paid at piece-work rate, the amount earned during the week divided by the number of days worked (reckoned in terms of full working days);

(f) in respect of an employee employed on hourly wages, the amount of wages earned during the week, divided by the number of hours worked and multiplied by eight;

(g) in respect of an employee who does not fall under clauses (a) to (f), the amount calculated on the basis of wages earned for the day on which the contribution falls due.

Explanation.—Except as provided by regulations, pay, salaries or allowances paid in respect of any period of leave or holidays with pay shall not be taken into account in reckoning wages.

3. (a) For the purposes of fixing the amount of weekly contribution payable, employees shall be divided into eight groups on the basis of their average daily wages ascertained in the manner specified in paragraph 2.

(b) The employees' contribution and employer's contribution payable in respect of the group of employees specified in the first column of the table below shall be at the rates respectively specified in the corresponding entries in the second and third columns thereof.

TABLE

Group of employees	Employees' contribution (recoverable from employees)	Employers' contribution	Total contribution (employees' and employer's contribution)
1	2	3	4
	Rs. A. P.	Rs. A. P.	Rs. A. P.
1. Employees whose average daily wages are below Re. 1.	Nil	0 7 0	0 7 0
2. Employees whose average daily wages are Re. 1 and above but below Rs. 1 8 0.	0 2 0	0 7 0	0 9 0
3. Employees whose average daily wages are Rs. 1 8 0 and above but below Rs. 2.	0 4 0	0 8 0	0 12 0
4. Employees whose average daily wages are Rs. 2 and above but below Rs. 3.	0 6 0	0 12 0	1 2 0
5. Employees whose average daily wages are Rs. 3 and above but below Rs. 4.	0 8 0	1 0 0	1 8 0
6. Employees whose average daily wages are Rs. 4 and above but below Rs. 6.	0 11 0	1 6 0	2 1 0
7. Employees whose average daily wages are Rs. 6 and above but below Rs. 8.	0 15 0	1 14 0	2 13 0
8. Employees whose average daily wages are Rs. 8 and above.	1 4 0	2 8 0	3 12 0

SCHEDULE II

(See sections 49, 51, 52 and 58)

Sickness Benefit and Disablement and Dependants' Benefits.

1. The average daily wages of an employee in each of the groups specified in the first column of the table below shall, for the purpose of calculating the sickness benefit and disablement and dependants' benefits be assumed to be the rate specified in the corresponding entry in the second column thereof.

TABLE

Group of employees	Average assumed daily wages
1	2
	Rs. A. P.
1. Employees whose average daily wages are below Re. 1	1 14 0
2. Employees whose average daily wages are Re. 1 and above, but below Rs. 1 8 0.	1 4 0
3. Employees whose average daily wages are Rs. 1 8 0 and above, but below Rs. 2.	1 12 0
4. Employees whose average daily wages are Rs. 2 and above, but below Rs. 3.	2 8 0
5. Employees whose average daily wages are Rs. 3 and above, but below Rs. 4.	3 8 0
6. Employees whose average daily wages are Rs. 4 and above, but below Rs. 6.	5 0 0
7. Employees whose average daily wages are Rs. 6 and above, but below Rs. 8.	7 0 0
8. Employees whose average daily wages are Rs. 8 and above.	10 0 0

2. The daily rate of sickness benefit during any benefit period shall be an amount equivalent to one-half of the sum of the assumed average daily wages as aforesaid for each of the weeks for which contributions were paid in respect of the person during the corresponding contribution period, divided by the number of weeks in that contribution period in which he was deemed to have been available for employment within the meaning of section 48; provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples:—

Example 1.—If the assumed average daily wages of the person as an employee were Rs. 1/4/- a day for 10 weeks, Rs. 1/12/- a day for 10 weeks and Rs. 2/8/- a day for 6 weeks, the average of the assumed daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{10 \times 20 + 10 \times 28 + 6 \times 40}{26} = 27\frac{18}{26}$$

The daily rate of sickness benefit payable in the benefit period will then be $18\frac{22}{26}$ annas, rounded to the next higher anna, namely, 14 annas.

Example 2.—If the person was deemed to have been not available for employment for 14 weeks in any contribution period and was employed as an employee for only 12 weeks in that contribution period, his assumed average daily wages being Rs. 1/4/- for the 12 weeks, the average of the assumed daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{12 \times 20}{(26 - 14)} = 20 \text{ annas.}$$

The daily rate of sickness benefit payable in the benefit period will then be 10 annas.

Example 3.—If the person was deemed to have been not available for employment for 4 weeks in any contribution period and was employed as an employee for only 20 weeks (he having been without any employment for 2 weeks) in that contribution period, his assumed average daily wages being Rs. 1/12/- for 20 weeks, the average of the daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{20 \times 28}{(26 - 4)} = 25\frac{5}{11} \text{ annas.}$$

The daily rate of sickness benefit payable in the benefit year will then be $12\frac{8}{11}$ annas, rounded to the next higher anna, namely, 18 annas.

3. Disablement and dependants' benefit shall be an amount equivalent to one-half of the sum of the assumed average daily wages for each of the weeks for which contributions were paid in respect of the employee during the period of fifty-two weeks immediately preceding the week in which the employment injury occurs, divided by the number of weeks for which contributions were so paid; provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples:—

Example 1.—If the assumed average daily wages of an employee were 14 annas a day for 20 weeks, Rs. 1-4-0 a day for 20 weeks and Rs. 1-12-0 a day

for 12 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be:—

$$\frac{20 \times 14 + 20 \times 20 + 12 \times 28}{52} = 19\frac{28}{52} \text{ annas.}$$

The disablement or dependants' benefit will then be $9\frac{20}{26}$ annas, rounded to the next higher anna, namely, 10 annas a day.

Example 2.—If the employee worked only for 34 weeks in the period of 52 weeks preceding the week in which the employment injury occurs and his assumed average daily wages were 14 annas a day for 20 weeks and Rs. 1-4-0 for 14 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be:—

$$\frac{20 \times 14 + 14 \times 20}{34} = 16\frac{16}{34} \text{ annas.}$$

The disablement or dependants' benefit will be $8\frac{8}{34}$ annas, rounded to the next higher anna, namely, 9 annas a day.

The disablement or dependants' benefits calculated as aforesaid shall be called the full rate.

4. The disablement or dependants' benefit shall be payable to a person suffering from disablement as a result of an employment injury sustained as an employee in a factory or establishment to which this Act applies, or if he dies as a result of such injury, to his dependants, as follows:—

(i) to the insured person—

(a) for temporary disablement, during the period of such disablement at the full rate;

(b) for permanent partial disablement, at a percentage of the full rate, as provided in section 4 of the Workmen's Compensation Act, 1923 (VIII of 1923), for life;

(c) for permanent total disablement, at the full rate for life;

(d) in cases of disablement not covered by clauses (a), (b) and (c) above, as may be provided in the regulations.

(ii) in the case of the death of the person, to his widow and children as follows:—

(a) to the widow during life or until remarriage an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows;

(b) to each legitimate or adopted son, an amount equivalent to two-fifths of the full rate until he attains fifteen years of age;

(c) to each legitimate unmarried daughter, an amount equivalent to two-fifths of the full rate until she attains fifteen years of age or until marriage, whichever is earlier;

Provided, that the Corporation may continue such benefit to any legitimate or adopted son or any legitimate unmarried daughter until he or she attains the age of eighteen years if such son or daughter continues education to the satisfaction of the Corporation:

Provided further that if the total of the dependant's benefits distributed among the widow or widows and legitimate children of the deceased person as aforesaid exceeds the full rate, the share of each of the dependants shall be proportionately reduced, so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

5. In case the deceased person does not leave a widow or legitimate child, dependants' benefit at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923), shall be payable as follows:—

- (a) to a parent or grand parent, for life;
- (b) to any other male dependant, until he attains fifteen years of age;
- (c) to any other female dependant, until she attains fifteen years of age or until marriage, whichever is earlier, or if widowed until she attains fifteen years of age.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.